

HUMAN SERVICES BOARD

INTRODUCTION

This is an appeal of several alleged actions taken by the Office of Child Support (OCS) with regard to the collection of child support due to the petitioner. This appeal has been pending for six years. The petitioner had an attorney in this matter until December of 2002 who was pursuing a settlement of her claims and asked that a hearing be put in abeyance. In June of 2003, after that attorney had withdrawn and the petitioner began to represent herself, the hearing officer advised her that she should inform the Board immediately if settlement negotiations broke down. After hearing nothing from the petitioner for over two years, the Board clerk made a routine inquiry in late 2005 as to whether the case could be closed. The petitioner responded that nothing had been settled and she wanted to set the matter for hearing. Given the long history of this matter and the petitioner's failure to pursue her case for over two years, the petitioner was ordered to provide the Board with a list of remaining claims and the allegations supporting those

claims. OCS has moved to dismiss the case for lacking any justifiable controversy.

FINDINGS OF FACT

For purposes of OCS' Motion to Dismiss, the petitioner's allegations are deemed to be true. Other factual findings are taken from documents already in the file.

1. A Maine child support adjudicator made an order of child support in favor of the petitioner regarding a child born to her and a Maine resident in 1992.

2. The petitioner moved to New York in 1992 to live with her parents and received support collection assistance in that state.

3. In 1994, the Maine child support adjudicator ordered the child's father to pay \$102.50 in current support and \$7,916 as an arrearage.

4. The petitioner agrees that the state of Maine continues to collect support on her behalf and to disburse it to all claimants.

5. The petitioner's parents moved with her and the child at issue to Vermont in 1994. The petitioner became a client of Vermont OCS in 1995 and began public assistance benefits in 1996. As part of its service, OCS received

disbursements made by Maine and distributed them to the parties involved as directed by the State of Maine.

6. In June 1997, a Vermont court gave custody of the petitioner's child to her mother due to the petitioner's mental instability and maltreatment of her child.

7. The Vermont office of OCS reported the custody change to the state of Maine.

8. The State of Maine told Vermont to disburse support payments to the grandparents while the child was in their custody. This disbursement was made according to Maine law.

9. In 2000, the petitioner moved to New Hampshire and ceased being a client of the Vermont OCS.

10. OCS' only present interest in this matter is to recover ANFC payments made to the petitioner while she was on public assistance in Vermont from June of 1994 through 2000. It has certified the amount of Vermont's claim to the state of Maine.

11. Maine makes decisions about how to disburse child support payments it receives from the child's father. At several times since 1994, Maine has sent disbursements to Vermont to reimburse it for ANFC payments. While in Vermont, the petitioner challenged some of the disbursements and OCS assisted her in correcting the errors.

12. In November of 2001, the petitioner's attorney withdrew the issue of the redirection of support payments to the petitioner's mother during her period of custody in documents filed with the Board. The only remaining issue for settlement was Maine's distribution to Vermont of child support it had collected.

13. In September of 2002, Vermont, as a courtesy to the petitioner and in attempt to settle the appeal, asked Maine to hold a hearing in order to inform the petitioner as to amounts collected, arrearages owed and amounts disbursed and to whom. The hearing was held and the petitioner participated by telephone. Maine ordered the child's father to make an arrearage payment of \$2,808.16 to the petitioner and offered some clarification of amounts received and disbursed on the petitioner's behalf. It does not appear that the petitioner appealed any finding of the Maine appeals tribunal.

ORDER

OCS's request to dismiss this case for lack of a controversy justiciable by this Board is granted.

REASONS

The petitioner has raised three issues in this appeal. The first is that Maine improperly redirected child support to her mother when she had temporary custody of the child (grandchild) and that Vermont was wrong to disburse those payments to her mother. She wants to recover that money now from the State of Vermont. OCS has responded that this issue was withdrawn by her attorney in 2001; that the disbursement occurred due to a directive from Maine based on Maine law; and that it cannot recover money already disbursed to the petitioner's mother, making the petitioner's only possible claim for tort damages over which the Board has no jurisdiction.

The petitioner's second issue is that Maine improperly turned over child support payments to Vermont to reduce her ANFC arrearage when her current support and arrearages were unpaid. OCS does not disagree with the petitioner's position that payments for ANFC debts are made only after payments to the family are satisfied. However, OCS says that under 15B V.S.A. § 205, it is the adjudicating state, not the collecting state, that has the sole authority to determine payment amounts, arrearages and disbursements. OCS was never

given any information from Maine as to why it was entitled to the two disbursements and OCS has no information to determine whether the disbursement is correct or not. However, in an attempt to clear this up for the petitioner, OCS contacted Maine in September 2002 to inquire about its payments and disbursements. Maine responded by setting up a phone hearing for the petitioner at that time. The result was that Maine set a new amount of arrearage owed to the petitioner. OCS argues that the petitioner had an opportunity to have her questions about disbursements answered in her appeal to that tribunal.

The petitioner's third claim is that Vermont has communicated to Maine that her child support payments should stop. However, the petitioner did not allege any details in support of her claim. OCS disputes that it has ever taken any such action. OCS continues to maintain that the only role it had in this controversy was to certify the amount of the Vermont ANFC debt to the state of Maine. The petitioner has proffered no evidence whatsoever to the contrary.

15B V.S.A. § 205(d) states that "[a] tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this title on a law substantially

similar to this title." OCS is correct that under this law that Maine, as the state which issued the child support order, is the only entity which can order the amounts to be collected and the entities to whom disbursements can be made. From 1994 through 2000, Vermont's only role was to act as an agent for Maine in the disbursement of child support payments collected by that state, as that state directed.

As the petitioner was an ANFC recipient during this period, she automatically assigned her rights to support for the period of assistance to Vermont. 33 V.S.A. § 3092. Vermont was the payee of all support collections made while she was on ANFC. When the petitioner went off of ANFC, Vermont certified the existence of all unreimbursed assistance to the state of Maine. The petitioner did not dispute that amount in her submissions. Maine, not Vermont, then determined who would be paid amounts it collected on behalf of the petitioner's child.

The petitioner has not been an OCS client since her move to New Hampshire over five years ago. Vermont has no records of the total support collections made by Maine or to whom they were disbursed. Nor does Vermont have any power to decide how arrearages are paid. Vermont has only a record of its own ANFC payments to the petitioner and a record of

amounts it received from Maine and to whom they were disbursed at the direction of Maine during the six years she lived here. OCS did not make the decision to pay the petitioner's mother when she had custody, did not make the decision to make payments on its certified arrearage and had no power to prevent Maine from collecting and making child support payments as its law directs. As such, the Board has no jurisdiction over this matter because the petitioner is not "aggrieved by any action . . . or policy" of the Vermont Office of Child Support. 3 V.S.A. § 3091(a). Therefore, OCS's motion to dismiss should be granted and the petitioner is urged to remove her appeal to the State of Maine where any grievance she may have can be handled.

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